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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,824	01/10/2002	Robert W. Arnold JR.	4620-00006	8046
26753	7590	07/20/2004	EXAMINER	
ANDRUS, SCEALES, STARKE & SAWALL, LLP 100 EAST WISCONSIN AVENUE, SUITE 1100 MILWAUKEE, WI 53202			GORDON, BRIAN R	
		ART UNIT		PAPER NUMBER
		1743		
DATE MAILED: 07/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/044,824	ARNOLD ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Brian R. Gordon	1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 1-10-02.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5-7-04, 8-21-03</u> . | 6) <input checked="" type="checkbox"/> Other: <u>IDS 4-23-02</u> .                       |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kelly et al. US 5,779,9847.

Kelly et al. discloses each limitation of the instant claimed invention. Specifically, Kelly et al. discloses a SPACESAVER refill pack in which the housing supports several vertically separated horizontally extending carrier plates (transfer tray) each having an array of holes matching the array of holes in the support tray of standard pipette tip racks (pipette holder) and each supporting an array of replacement pipette tips. For compactness, the distal ends of vertically adjacent pipette tips in each array nest freely in the open proximal ends of the next lower array of pipette tips. A push plate is supported at an upper open end of the housing and allows a user to successively dispense arrays of pipette tips from the open bottom of the housing into a series of empty pipette tip racks simply by pushing downward on the push plate. Alternatively the user may periodically replenish the pipette tips in a single reusable tip rack.

"A push plate 56 (with array of fingers on underside) in an open top of the housing 54 and (4) flexible resident flaps 58 bounding the holes 52 for releasably securing the proximal end portion 20P of the pipette tips 20 of the array 42 in the holes

in the support plate 50 (see FIG. 6). Upon a user application of a downward force on the push plate 56, the nested arrays 42-48 are forced downward within the housing 54 causing the flaps 58 (flexible lips) to flex downwardly to enlarge the openings of the holes 50 and allow the lowermost array 42 of pipette tips 20 to drop vertically from the open bottom of the housing 54 into an empty pipette tip rack located under the housing."

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Viot, Francois et al.; Labriola, Anthony M et al.; Petrek, James S.
4. Lahti, Arto; Lemieux, David J. et al.; Steinbrenner, Bernd et al.; Lemieux, David J.; Pardinas, Guillermo P.; and Moritz, Jeffrey R. et al. disclose pipette tip holders and refilling devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian R. Gordon whose telephone number is 571-272-1258. The examiner can normally be reached on M-F, with 2nd and 4th F off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

brg

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700